



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

JUN 30 2005

MEMORANDUM FOR: William T. Hogarth, Ph.D.
Assistant Administrator for Fisheries

FROM: *for* *Garry T. Mayer*
Rolland A. Schmitten
Director, Office of Habitat Conservation

SUBJECT: Final Damage Assessment and Restoration Plan/Environmental
Assessment for the North Pass Oil Spill; and Finding of No
Significant Impact

The National Oceanic and Atmospheric Administration (NOAA) is the lead federal agency for National Environmental Policy Act (NEPA) compliance for the "Final Damage Assessment and Restoration Plan/Environmental Assessment for the North Pass Oil Spill" (DARP/EA). The DARP/EA was prepared by federal and state natural resource Trustees responsible for restoring natural resources and services injured on September 22, 2002, by the oil spill from an above-ground storage tank at Ocean Energy Inc.'s North Pass facility in Plaquemines Parish, Louisiana. The DARP/EA describes the injuries and the restoration action selected by the Trustees to compensate the public for the injuries to natural resources and the related loss of services.

The Trustees determined that the marsh habitat impacted by this incident has either recovered or, in the small areas where injury persists, will recover to baseline conditions naturally in a short period of time. Active primary restoration was considered by the Trustees, but it was decided that such activities had a strong likelihood of causing additional injury to the natural resources and services. Therefore, the focus of the final DARP/EA is on compensatory restoration.

The Trustees considered nine restoration alternatives potentially capable of providing compensatory restoration for the injuries resulting from the North Pass incident. All nine potential restoration alternatives were evaluated based on the six criteria presented in the Oil Pollution Act (OPA) regulations (15 C.F.R. §990.54). The key criterion the Trustees used for the North Pass DARP/EA is the "*Extent to which each alternative is expected to meet the Trustees' goals and objectives in returning the injured natural resources and services to baseline and/or compensating for interim losses,*" because this criterion most clearly indicates whether the goal of making the public whole from losses resulting from the incident is met.

The Trustees employed a service-to-service scaling method, where restoration actions provide natural resources and/or services of the same type and quality and of comparable value as those lost. The restoration alternative selected is based on a project-specific preliminary design concept, rather than detailed engineering plans. The final project may require refinements or adjustments when implemented to suit site conditions or other factors based on further Trustee analysis.



The environmental review process has led NOAA to conclude that this restoration action will not have a significant effect on the quality of the human environment. Therefore, an environmental impact statement will not be prepared. A determination of a Finding of No Significant Impact (FONSI) is recommended.

In accordance with NOAA Administrative Order 216-6, the EA and FONSI are attached for your environmental review, along with the transmittal for concurrence by NOAA's Office of Policy and Strategic Planning.

Two (2) Attachments:

- Final Damage Assessment and Restoration Plan/Environmental Assessment for the North Pass Oil Spill with Finding of No Significant Impact (FONSI) – see Appendix 6
- Concurrence Memo for Office of Policy and Strategic Planning (NOAA NEPA Coordinator)

APPENDIX 6. Finding Of No Significant Impact

National Oceanic and Atmospheric Administration Administrative Order 216-6 (May 20, 1999) contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality regulations at 40 C.F.R. §1508.27 state that the significance of an action should be analyzed both in terms of “context” and “intensity.” Each criterion listed below is relevant to making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ’s context and intensity criteria. These include:

- 1) Can the proposed action be reasonably expected to have a substantial adverse impact on public health or safety? *No. The selected restoration project is designed to enhance habitat and be beneficial to the environment. No adverse impacts on public health and safety are expected.*
- 2) Can the proposed action be reasonably expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species? *No. As described in Section 5.7.5 and Appendix 2, and concurred with in Appendix 5, the selected restoration project is not expected to adversely affect endangered or threatened species. Consultation with the USFWS and NOAA’s National Marine Fisheries Service (NMFS) pursuant to the ESA ensures that the selected restoration action is in accordance with all applicable provisions.*
- 3) To what degree are the effects on the quality of the human environment likely to be highly controversial? *Effects on the quality of the human environment are not expected to be controversial. Similar projects in the region have not been controversial.*
- 4) Can the proposed action be reasonably expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas? *No. Cultural and historical resources are not going to be impacted by the selected restoration project. The crevasse splay project is designed to enhance freshwater/brackish marsh habitat within Delta National Wildlife refuge. The project location has been selected to minimize any potential negative impacts on park land while increasing habitat for fish and wildlife.*
- 5) To what degree are the effects on the human environment likely to be uncertain or involve unique or unknown risks? *Unique or unknown risks to the human environment are unlikely. Creating crevasse splays is a proven technique with established methods and documented results. Local, state, and federal agencies have successfully implemented similar projects in this region of the modern Mississippi (Belize) Delta.*
- 6) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts? *No. No past, present, or foreseeable actions appear likely to have any cumulative impacts when combined with the selected action that would cause significant impacts to the human environment.*

7) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

No. As stated and concurred with in Appendix 5, the selected project will not adversely affect any known archaeological sites or sites of cultural or scientific significance. The project is not located near any highways or structures that might be affected by project implementation.

8) Can the proposed action be reasonably expected to result in the introduction or spread of a nonindigenous species? *No. The selected restoration project should not cause or promote the introduction or spread of invasive species. The location and elevation of the crevasse splay marsh creation will promote colonization by native species; colonization by invasive species is unlikely.*

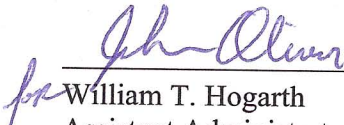
9) Is the proposed action likely to establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration? *No. The selected action is not expected to have a precedent setting effect on future actions that may significantly affect the human environment.*

10) Can the proposed action be reasonably expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment? *No. As described in Section 2.1.4, the selected restoration project will comply with all Federal, State, and local law requirements and is expected to enhance habitat and protect the environment.*

11) Can the proposed action be reasonably expected to result in beneficial impacts, not otherwise identified and described above? *Since the Trustees designed the project to achieve recovery of injured natural resources, the cumulative environmental consequences will be largely beneficial.*

DETERMINATION

In view of the information presented in this document and the analysis contained in the attached Environmental Assessment prepared for the crevasse splay restoration project at Octave Pass, it is hereby determined that this restoration project will not significantly impact the quality of the human environment as described above and in the Environmental Assessment. In addition, all impacts to potentially affected areas, including national, regional, and local, have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.


for William T. Hogarth
Assistant Administrator for Fisheries
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
U. S. Department of Commerce

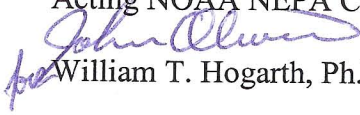
Date 7-12-05



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910
THE DIRECTOR

JUL 13 2005

MEMORANDUM FOR: Susan A. Kennedy
Acting NOAA NEPA Coordinator

FROM:  William T. Hogarth, Ph.D.

SUBJECT: Final Damage Assessment and Restoration
Plan/Environmental Assessment for the North Pass Oil
Spill; and Finding of No Significant Impact

The National Oceanic and Atmospheric Administration (NOAA) is the lead federal agency for National Environmental Policy Act (NEPA) compliance for the "Final Damage Assessment and Restoration Plan/Environmental Assessment for the North Pass Oil Spill" (DARP/EA). The DARP/EA was prepared by federal and state natural resource Trustees responsible for restoring natural resources and services injured on September 22, 2002, by the oil spill from an above-ground storage tank at Ocean Energy Inc.'s North Pass facility in Plaquemines Parish, Louisiana. The DARP/EA describes the injuries and the restoration action selected by the Trustees to compensate the public for the injuries to natural resources and the related loss of services.

The Trustees determined that the marsh habitat impacted by this incident has either recovered or, in the small areas where injury persists, will recover to baseline conditions naturally in a short period of time. Active primary restoration was considered by the Trustees, but it was decided that such activities had a strong likelihood of causing additional injury to the natural resources and services. Therefore, the focus of the final DARP/EA is on compensatory restoration.

The Trustees considered nine restoration alternatives potentially capable of providing compensatory restoration for the injuries resulting from the North Pass incident. All nine potential restoration alternatives were evaluated based on the six criteria presented in the Oil Pollution Act (OPA) regulations (15 C.F.R. §990.54). The key criterion the Trustees used for the North Pass DARP/EA is the "*Extent to which each alternative is expected to meet the Trustees' goals and objectives in returning the injured natural resources and services to baseline and/or compensating for interim losses,*" because this criterion most clearly indicates whether the goal of making the public whole from losses resulting from the incident is met.

The Trustees employed a service-to-service scaling method, where restoration actions provide natural resources and/or services of the same type and quality and of comparable value as those lost. The restoration alternative selected is based on a project-specific preliminary design concept, rather than detailed engineering plans. The final project may



Printed on Recycled Paper

THE ASSISTANT ADMINISTRATOR
FOR FISHERIES

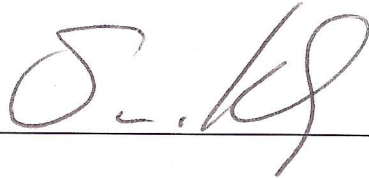


require refinements or adjustments when implemented to suit site conditions or other factors based on further Trustee analysis.

The environmental review process has led NOAA to conclude that this restoration action will not have a significant effect on the quality of the human environment. Therefore, an environmental impact statement will not be prepared. A determination of a Finding of No Significant Impact (FONSI) is recommended.

Based on my environmental review of the Final Damage Assessment and Restoration Plan/Environmental Assessment for the North Pass Oil Spill, I have determined that no significant impacts to the quality of the human environment will result from the proposed action. I request your concurrence in the determination of a Finding of No Significant Impact. Please return this signed memorandum for our project files and for the Administrative Record.

I concur:

A handwritten signature in dark ink, appearing to be "S. K. J.", written over a horizontal line.

Date

7/13/05

I do not concur:

Date